

THE MINISTER OF SOCIAL JUSTICE AND EMPOWERMENT (DR. SATYA NARAYAN JATIYA): No. It is a very small Bill.

THE DEPUTY CHAIRMAN: I am not saying, don't have a discussion. What I am saying is....

SHRI JIBON ROY: Madam, it is about safai karamcharis.

THE DEPUTY CHAIRMAN: The whole trouble with you is.../interruptions)... Could you please listen? Sometimes, the Chair also draws your attention, as you draw the attention of the Chair. There are some Bills, between Mr. Arun Jaitley's and Dr. Satya Narayan Jatiya's. Immediately, after we finish the Indian Succession (Amendment) Bill, 2001, we should take up the National Commission for Safai Karamcharis Bill. Nowhere there was a suggestion that if you pass every Bill .interruptions)... I know that you are very concerned about karamcharis, whether safai or otherwise, your sentiments have been taken care of. If the House agrees, we will take up the Safai Karamcharis Bill immediately after the Indian Succession Bill.

THE INDIAN SUCCESSION (AMENDMENT) BILL, 2001

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI ARUN JAITLEY): Madam Deputy Chairman, I move :

"That the Bill further to amend the Indian Succession Act, 1925, be taken into consideration."

The Indian Succession Act, 1925, was aimed at consolidating the law relating to testamentary and intestate succession, as was prevalent at that time in the country. Chapter II of Part V of this Act mainly deals with intestate succession of Christians. There are two particular provisions which this Bill seeks to amend. Section 32 of the Act, in this Chapter, recognizes

the Christian widow as one of the successors to succeed to the property of her deceased husband. However, there is an Explanation attached to it, the effect of the Explanation is, if, at the time of the marriage, there is an agreement between the wife and husband, in that event, the wife, on becoming a widow, will be excluded from her husband's succession. Madam, though this was originally conceived to be something which would have been opposed to public policy, because there was a specific statutory provision in 1925, this has been sustained. We have been receiving various representations that this should be done away with from the statute book; and such a provision should have no recognition, particularly, in the present age. The Kerala Women's Commission and several other non-Governmental organisations and various Christian Women's organisations have been representing to the Government that this Explanation should be deleted and a Christian widow should be entitled to succeed to the property of her husband, particularly, if he dies intestate.

The second provision is with regard to the provisions of Section 213 of the Indian Succession Act. This is intended to bring the Christians on par with other communities in the country. The provisions of Section 213 does not apply to Muslims. It also doesn't apply to Hindus, Jains and Buddhists, except a certain category who live in 3 metropolitan towns. Since there is no demand yet in relation to that category of the Hindus, we are not looking into those at the moment. But, with regard to Christians, an exception has been made that upon the death of a Christian, there is a probate mandatorily required to be obtained by his successors all over the country. This is a long-drawn process where Christian heirs have to go to court and spend money on litigation and then get the order of the court to enable them to succeed to the predecessor interests.

Some months ago, I received a representation signed by Christian Members of Parliament belonging to both Houses of Parliament. About 23 Members wanted a change in this particular provision. Thereafter, I consulted various other Christian organisations and they were" also in favour of the change. The Law Commission, in its 110th Report, the Christian Women's Commission, Members of Parliament and other community leaders have all been requesting us to make a change in this provision.

3.00 P.M.

And, therefore, the second amendment which has been introduced is just to bring the Indian Christians at par with the words 'Mohammedans' used in section 213 so that they are also not expected to go through this cumbersome legal process before succeeding to the property of her predecessor-in-interest.

Since this is a provision which seeks to help the community and also delete one provision which is now considered unconscionable with regard to excluding a widow from her husband's property, I request the hon. House to take it up for consideration and pass it.

The question was proposed.

THE DEPUTY CHAIRMAN: I have one objection to it. As the Act is of the year 1925 and we were under a foreign rule, the word 'Mohammedan' is used. No more is this word used in our country. Muslims are known as 'Muslims', not 'Mohammedans'. You should change this word to 'Muslims'. There are no 'Mohammedans'.

SHRI ARUN JAITLEY: Since this is a pre-Independence legislation, I will check up whether this is used in other pre-Independence legislations also and we will see what can be done.

THE DEPUTY CHAIRMAN: Because all those discriminatory words which the British were using as far as women are concerned have been changed, this word 'Mohammedan' which they used should not be used any more. So, I would request the hon. Law Minister to delete it because we are Muslims and not 'Mohammedans'.

SHRI ARUN JAITLEY: Madam, I will certainly check it up. This would have been used in certain other pre-1947* legislations also. I will examine that.

THE DEPUTY CHAIRMAN: Now, I do not think that there is any dispute about this Bill. It is beneficial to women. If everybody so agrees...

SHRI NILOTPAL BASU (West Bengal) : Madam, the point is this. I think we have agreed the other day in the Conference that legislation is the primary function of the House. Therefore, if anybody has any point to be made, it may be permitted. Of course, there will not be a very long discussion on this. But I think whosoever has given the name should be allowed to speak and we will go through the matter.

श्री संघ प्रिय गौतम(उत्तरांचल): सब एग्री कर रहे हैं।

उपसभापति: सब एग्री कर रहे हैं। ...**(व्यवधान)**... अभी तीन चार नाम मेरे पास हैं। I agree with you 100 per cent, Mr. Nilotpal Basu, that any legislation or every legislation should be discussed. As far as this legislation is concerned, this is beneficial to women. They were discriminatory in respect of inheritance. I can only put one question. Anybody else can put any questions. I want to put one question. As far as Muslims are concerned, the inheritance of the wife, deceased wife, is properly identified, codified. What about the Christians? How much a widow of a deceased Christian will inherit?

SHRI ARUN JAITLEY: I am sorry, I did not follow it.

THE DEPUTY CHAIRMAN: Sorry if I put you in difficulty. As far as the Muslims are concerned, their succession is identified according to the Quoran, that a woman is an inheritor and the children are residuaries. But, as far as a Christian woman is concerned, how much share is she going to get from her husband and how will it be divided?

SHRI ARUN JAITLEY: There is some difficulty as far as this question is concerned because there are some provisions which are still remaining under this Act. According to certain Christian organisations, there is some element of discrimination and they have just represented to me. But I have not been able to have the normal practice of Government. Whenever we receive representations with regard to personal laws, we have larger consultations with community leaders and others. Only after we have discussed with them, we bring the amendment. In fact, today, I have received an amendment that in certain categories of inheritance, with regard to Christian women, there is still an element of discrimination. I will be separately looking into it.

THE DEPUTY CHAIRMAN: How will you deal with it once we pass this Bill?

SHRI ARUN JAITLEY: This Bill deals with two separate categories. All amendments need not be brought the same day. The principal purpose of this amendment is to remove this onerous procedure of probating being mandatory for all Christians anywhere in the country before succession can be made, before they become entitled to succession. This is not true of any other community; it is not true of Muslims at all, they do not require it; with regard to Hindus, it is required in the Presidency Towns of Mumbai, Chennai and Calcutta and it is not required elsewhere. As I mentioned in the opening statement, I will be discussing with them also because so far no demands have been made of us to delete it with regard to the Hindus of those three cities.

The Hindus elsewhere in the country do not require it, but the Christians have been making a very forceful plea, "Why should we be subjected to this sort of discrimination? And this should be deleted." So, the principal purpose of this Amendment is that.

The second object is that, otherwise, a contract was entered into at the time of marriage, and I tried to find out what the history was, why this provision was brought in 1925, that at the time of marriage where wife and husband should be very fond of each other, they could enter into a contract to render the wife to destitution at a time when she becomes a widow; they disentitled her from her inheritance. This was really done for the protection of those cases where the Englishmen would come to this country - and there was a large number of them before Independence - marry women, but make sure that they were not entitled to inheritance of their British properties. So, this provision was brought for that purpose, and, today, it is no longer required. So, we are deleting it.

There are some other provisions which are still areas of a problem. I have, in fact, in hand a representation which I received today itself, that they want those provisions also to be removed. For instance, where a son dies, the father becomes entitled to it; the mother is not entitled to it. There are some provisions which are still discriminatory and, therefore, I will be separately discussing them with the community leaders before I bring about those amendments.

THE DEPUTY CHAIRMAN: Among the Muslims, the mother also gets the same proportionate share.

SHRI ARUN JAITLEY: For instance, this is the representation. We will be independently looking into it. ...*(Interruptions)*...

THE DEPUTY CHAIRMAN: Now, if everybody wants to say a word ...*(Interruptions)*... I have your name, but let me go properly.

SHRI ARUN JAITLEY: Madam, you have asked a question with regard to the widow. Normally, the provision in this Act with regard to the Christians is 33 per cent. It is one-third for the widow and two-third for the other ...*(Interruptions)*... Two-third for the others.

THE DEPUTY CHAIRMAN: One-third for the widow. What is it for the other inheritors, the children?

SHRI ADHIK SHIRODKAR (Maharashtra) : Under the Christian Law, all women are prejudicially discriminated against, and it requires to be amended. I am from Goa. So, all these relations will have to be dealt with in detail and changed completely.

SH. RI C.P. THIRUNAVUKKARASU (Pondicherry) : Madam, in Pondicherry, the Christian women are not entitled to any share in the property. ...*(Interruptions)*... When the women are not entitled to any share in the property, what is the need for making an amendment? ...*(Interruptions)*...

SHRI ARUN JAITLEY: Since we are dealing with personal laws, and my experience has been - I have been interacting with a large number of Christian organisations - that despite some initial opposition to some of these changes in the past, the Christian women have been taking the lead, and the Church authorities have also been very actively cooperating in the process of change of a large number of those laws. In the last Session also, we passed the amendments to the Indian Divorce Act, and when the organisations appeared before the Parliamentary Standing Committee, they " improved upon the suggestion which the Government had made, and this is after several efforts, after 1947, had failed to bring about those changes. Therefore, what I am suggesting is that these amendments can be

approved, and in regard to all other suggestions which will come to us, we have a regular consultation process with the members of the community, and after we have consulted them, there is no problem in bringing a second bunch of amendments at a later stage, if you so consider it necessary.

THE DEPUTY CHAIRMAN: First, I have got the name of Shri Kripal Parmar from the BJP. ...(*Interruptions*)... Shrimati Bharati Ray. Do you support the Bill?

PROF. (SHRIMATI) BHARATI RAY (West Bengal) : Yes, I support the Bill. Madam, I want to say a word or two.

श्री कृपाल परमार(हिमाचल प्रदेश): महोदया...

उपसभापति: आप खड़े क्यों नहीं हुए। आपका नाम पुकारा था। परमार जी बोल दीजिए। पुरुष महिलाओं के लिए बोलें ते इससे बड़ी बात क्या है।

श्री कृपाल परमार: माननीय उपसभापति जी, कानून मंत्री श्री अरुण जेटली जी द्वारा इंडियन सक्सेशन एक्ट, 1925 में लाया गया जो संशोधन है वह देखने में बहुत छोटा सा लगता है- उसमें सेक्शन 32 की एक्सप्लेनेशन और सेक्शन 213 में जो भेदभावपूर्ण व्यवहार क्रिश्चियन महिलाओं के साथ हो रहा है उसको खत्म करना है। लेकिन अगर इस एक्ट के इतिहास में जाया जाए तो यह अमेंडमेंट यह संशोधन वास्तव में एक ऐतिहासिक साहसिक संशोधन है क्योंकि 1925 में जब हिंदुस्तान पर ब्रिटिशर्स का राज्य था और वे लोग जो अपने आपको दुनिया का सबसे बड़ा न्यायविद् मानते थे। उन्होंने हिंदुस्तानी मुस्लिम और हिंदुओं के साथ ही भेदभाव नहीं किया, बल्कि जो भारतीय ईसाई थे और उन महिलाओं के साथ ही उन्होंने भेदभाव करने का प्रयास किया, जिनको वे शादी करके अपने घर में लाते थे। माननीया उपसभापति जी, वसीयत को लागू करने के लिये विधवाओं को 5 साल तक के समय का इंतजार करना पड़ता था और उसके बाद उनको कोर्ट में जाकर प्रोबेट लेना पड़ता था जिसके लिए बहुत—सा पैसा और समय लगता था। मैं अरुण जेटली जी को यह संशोधन लाने के लिए धन्यवाद देता हूँ कि उन्होंने इस देश में रहने वाली ईसाई महिलाओं के लिए, जिनका एक बड़े लंबे समय से भेदभावपूर्ण तरीके से शोषण हो रहा था, उनको उनके हकों से वंचित किया जा रहा था, उनको हक दिलाने का प्रयास किया है।

इन्हीं शब्दों के साथ, मैं इस संशोधन का समर्थन करता हूँ। धन्यवाद।

PROF. (SHRIMATI) BHARATI RAY : Madam Deputy Chairperson, this is a welcome Bill. I am very happy that we have a Law Minister who is sensitive to the gender issues. Gender inequality exists everywhere, all over the world, as you know, Madam. We are not concerned with other

countries. We are concerned with India only. This is a Bill which has come in response to the demand made by the Kerala Women's Organisation, the Women's Commission and other women's organisations. The demand came from within the community, and the Minister has responded to it.

I would like to say only one thing. Inheritance or succession is a key area where, under every law, women were and are still discriminated against. Succession is an important issue. Because when one becomes a widow, she loses social prestige, familial position and economic security. Now, I have one suggestion to make. It came to my mind after what Madam Deputy Chairperson has mentioned. She put the question: "What is the share of the wife?" Just now we heard that it is one-third of the property. In my view-and I think the whole House will agree with me-the wife should inherit half of the property, while the other half should be equally distributed among children because a mother will never deprive her children. But the children unfortunately, may do so. Of course, if a wife doesn't manage the household and look after the children, no man can go out, work and earn income and acquire property. Since our Law Minister is so sensitive to the gender needs, I hope he will bring a Bill to that effect very soon. Mr. Minister, you are not listening to me. Mr. Minister, I hope you will remember my fervent plea of giving a woman the right of residence to her matrimonial home, whether the husband is alive or dead. Thank you, Madam.

THE DEPUTY CHAIRMAN: In any case, after the mother's death, it will go to her children only. The inheritance will not go to anybody else. That is a better way. If she inherits half of it, after her death, it goes back to her children. So, half is much better than one-third.

SHRIMATI VANGA GEETHA (Andhra Pradesh): Madam Deputy¹ Chairperson, I support this Bill. In the context of separate personal laws like the Muslim Law, the Hindu Law and the Christian Law, governed by the Indian Succession Act, that prevail in this country, the Government has rightly brought this amendment to delete certain words and to add certain words to avoid the complications in the laws. This amendment will be helpful to women who, unfortunately, become widows. I welcome this Bill. Thank you, Madam.

SHRI H.K. JAVARE GOWDA (Karnataka): Madam, I welcome this Bill. The Minister has brought this Bill with a view to remove the flow. While getting the Succession Certificate and to help the Christian woman to get her due share. There is not much in this Bill. But, in the changing scenario, after the death of the husband, even the well placed sons and daughters do not look after their widowed mother. She may belong to any community. The hon. Minister has rightly said that there is no clear indication of share in the law so far as the Christian community is concerned. Under these circumstances, it is very necessary to amend certain sections to help the needy women. Nobody comes to the rescue of a widow. It is only the property left by her husband which can save her. I would request the Minister to bring a new legislation in order to give equal rights to the Christian women. Thank you.

SHRI C.P. THIRUNAVUKKARASU : Madam, you have put a very pertinent question. If there is no defined share, what is the use of bringing this Bill? I would like to linger over this point. The Christians are governed by the Hindu customary law. There is no codified law in Pondicherry. The Christians are governed by the Hindu customs. The Christians are following the Hindu customs. Under the Hindu customary law which is applicable to Christians also, the wife is not entitled to any share. She cannot ask for any share. What is the use of bringing this Bill? I am talking about Pondicherry. This law is applicable to Christians and Muhammadans as stated in the Bill. Why are you discriminating against the Hindus, the Bhuddhist, the Sikhs and the Jains? The question of probate is not necessary so far as these castes are concerned. Here you are talking of Christians and Muhammadans. Why don't you include Hindus, Sikhs and Jains also The question of probate is not applicable here. I would request the Minister to think over it. If there is no defined share, what is the use of this amendment? Secondly, only Christians and Muslims have been included in it. Why don't you include Hindus, Sikhs and other also in it? With these words, I welcome this Bill. Thank you.

THE DEPUTY CHAIRMAN: I think the Indian Succession Act defines the share. It is only in the Hindu joint family where the women are discriminated against.

SHRI C.P. THIRUNAVUKKARASU: Madam, there is a customary *km*, SO far as the Indian Succession Act is concerned, it is applicable only

after the death. Before the death the customs prevail in Tamil Nadu and other places. After the death, the Indian Succession Act is applicable. Prior to that only the customary law is applicable.

SHRI ARUN JAITLEY: Madam, I am grateful to the hon. Members who have...

THE DEPUTY CHAIRMAN: And the Chair too.

SHRI ARUN JAITLEY: And the Chair, particularly, because a very important point was raised by hon. Deputy Chairperson. Madam, you raised a question on the right of the widows, and I indicated that there were some difficulties in the succession, wherein I had also received representations. There are three different categories under Section 33. If a Christian male dies and leaves behind lineal descendants, then, one-third of the property goes to the widow and the remaining two-thirds go to the other lineal descendants. If he leaves behind no lineal descendant, but has left others who are kindred to him, then it is shared 50-50 between the widow and the rest of them. And, if there is nobody, then, it entirely goes to the widow. There are different categories which have been dealt with in this Act.

The hon. Members have made various suggestions. Some hon. Members stated, "Please bring in a special law; and that, so far as men are concerned, you must treat them at par with women". As I mentioned in the beginning, we are dealing with a personal law. Therefore, the normal practice by the Government has been that whenever we amend personal laws, we receive suggestions. We hold wide-ranging consultations with the community and only then we come to Parliament because we do not want anything to be done by Parliament, without taking the advice *or* having consultation with the community members themselves. One hon. Member also asked as to why we are putting the Christians at par with the Muslims, while the Hindus, the Buddhists and the Jains are being treated separately. The reason for this is because Section 213 of the Succession Act makes an exception in favour of Muslims, saying that with regard to Muslims, such a probate is not required; whereas, with regard to Hindus, Buddhists, Sikhs and Jains, it is required only for those of a particular category which is prescribed under Section 57. I have, in all fairness, not been able to really understand the rationale behind it. And, Section 57 says: "The Hindus, Sikhs, Buouhists and the Jains, who are within the jurisdiction, as in 1925,

of the areas under the jurisdiction of the Lt. Governor of Bengal and the High Courts of Madras and Bombay alone, will require a probate, and the others will not require it." There must have been some special reason in making this exception in these three areas; and, as I said in the beginning, I have not been able to understand why the Hindus in the three cities should require it, the Buddhists, Jains and Sikhs should require it in the three cities and not in the rest of the country. I will try to find out the reason. So far, we have not received any complaint or representation from the people residing in those areas as such. But, I know, lawyers practising in Mumbai and other parts always wonder as to why it is necessary in Mumbai, Chennai and Calcutta today and not required in other parts of the country. Therefore, instead of bringing Christians at par with them, which would really mean that the Christians in the three cities will require it, and those in other parts will not require it, we thought, it is better that since we are keeping them out, they should be kept out as far as the whole country is concerned. So we put them in the category along with the Muslims, in whose cases a probate or a letter of administration is not required. With these comments, Madam, I propose to the hon. House that the Bill be passed.

THE DEPUTY CHAIRMAN: I think, the general suggestion is that a comprehensive Bill should be brought in. Now, this redundant Act, which was brought in 1925, when we were under some foreign rulers who had their own interests involved in it, should be changed; and the Minister, like you, I am sure, will look into it.

SHRI ARUN JAITLEY: I will look into it.

THE DEPUTY CHAIRMAN: And all the redundant Bills should be done away with. The Bills should start from 1947 onwards and not before that.

Now the question is:

"That the Bill further to amend the Indian Succession Act, 1925, be taken into consideration."

The motion was adopted.

[3 December, 2001]

RAJYA SABHA

THE DEPUTY CHAIRMAN: We shall now take up clause-by-clause consideration of the Bill.

Clauses 2 and 3 were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI ARUN JAITLEY: Madam, I move:

"That the Bill be passed."

The question was put and the motion was adopted.

**THE NATIONAL COMMISSION FOR SAFAI KARAMCHARIS
(AMENDMENT) BILL, 2001.**

सामाजिक न्याय और अधिकारिता मंत्री (डा.सत्यनारायण जटिया): मैं प्रस्ताव करता हूँ कि:-

"राष्ट्रीय सफाई कर्मचारी आयोग के कार्यकाल को बढ़ाने के लिए राष्ट्रीय सफाई कर्मचारी आयोग अधिनियम 1993 का संशोधन करने वाले विधेयक पर विचार किया जाए।"

उपसभापति महोदय, वर्तमान आयोग फरवरी, 2001 में पुनर्गठित किया गया है और उसकी अवधि अधिनियम की धारा 1 उपधारा (4) में अंतर्विष्ट उपबंधों के अनुसार 31 मार्च, 2002 तक है। महोदय, यह महसूस किया गया है कि वर्तमान आयोग की अवधि 2 वर्ष से कम समय के लिए होगी जो उन लक्ष्यों को प्राप्त करने के लिए पर्याप्त नहीं हो सकेगी जिनके लिए इस आयोग का गठन किया गया है। अतएव यह विधेयक उक्त अधिनियम की अवधि को उक्त अधिनियम की धारा 1 की उपधारा (4) का संशोधन करके 29 फरवरी, 2004 तक बढ़ाने के लिए है जिससे आयोग की सामान्य अवधि 3 वर्ष हो जाएगी। यह विधेयक लोक सभा द्वारा 23 नवंबर, 2001 को विचार के बाद पारित कर दिया गया है।

The question was proposed.

SHRI RAMACHANDRA KHUNTIA (Orissa): Hon. Deputy Chairperson, this National Commission for Safai Karamcharis (Amendment) Bill, 2001 which has been passed by Lok Sabha and which has now been introduced by the hon. Minister, इस बिल के इंटर्रोज़ूस करने से मुझे लगता है कि यह